

WISHA REGIONAL DIRECTIVE

WISHA Services

Department of Labor and Industries

2.10

TARGETING WISHA ACTIVITIES (GENERAL)

Date: May 2, 2001

I. Background

Most Washington employers are subject to Title 49.17 RCW, the Washington Industrial Safety and Health Act (WISHA). RCW 49.17.050(6) specifically requires the department to "provide for the frequency, method, and manner of the making of inspections of work places without advance notice." WAC 296-350-10010 specifically provides for programmed inspections based on a number of objective factors reflecting the degree of anticipated risk regarding particular industries, activities, and employers. In addition, the rule highlights several "high hazard" industries, which include agriculture, asbestos renovation and demolition, construction, electrical utilities & communications, logging, and maritime.

For a number of years, the primary source of WISHA inspection selection has been the Safety and Health Information Management System (SHIMS), which provides for the creation of lists based on industrial classification and employer-specific workers compensation data. In isolated instances (for example, asbestos targeting), other targeting protocols have been developed for industries or employers whose activities do not readily lend themselves to targeting via SHIMS. In 1998, the various agency targeting protocols were reviewed in response to the first performance agreement signed with the federal Occupational Safety and Health Administration (OSHA). This directive builds upon the protocols developed at that time.

The agency uses two broad targeting protocols for hygiene and safety, respectively, as well as several industry-specific targeting protocols that are addressed in separate policy directives.

Hygiene Targeting: The SHIMS hygiene list begins with a list of four-digit SICs of employers with high numbers of serious hygiene violations cited, based on OSHA statistics. Employers reporting fewer than 20,000 worker hours annually are excluded, as are employers who have received a comprehensive hygiene inspection or a full service WISHA hygiene consultation within the previous 12 months. The remaining employers are ranked by a combination of their calculated experience factor and the actual hourly premium paid. The overall hygiene targeting protocol also includes asbestos, process safety management, and a statewide emphases on silica and lead in construction, described in separate directives.

Safety Targeting: The SHIMS safety protocol begins by listing the most hazardous industries (using four-digit SICs, supplemented by selected industrial insurance risk classifications). The lists exclude employers reporting fewer than 10,000 worker hours annually. The top priority list includes all employers in the group that have not received a comprehensive safety inspection or full-service safety consultation within the previous 36 months. The second priority list includes all employers in the group that have not received a comprehensive safety inspection or full-service safety consultation within the previous 12 months, as well as all employer accounts with a calculated experience factor below .9000. Both lists exclude any employers that have not reported at least one non-musculoskeletal claim. The remaining employers on both lists are then ranked using a combination of their calculated experience factor and the actual hourly premium paid. The safety targeting protocol also incorporates high-hazard industry inspections, as described by separate directives.

II. Scope and Application

This WISHA Regional Directive (WRD) replaces and rescinds WISHA Interim Operations Memorandum #98-6-A. It provides guidance to WISHA staff regarding programmed inspections and targeted consultations and will remain in effect indefinitely.

III. Compliance and Consultation Protocols

A. Who has responsibility for scheduling actual inspections and consultations?

WISHA regional supervisors are responsible for assigning and coordinating WISHA enforcement and consultation activities within the region.

Note: This responsibility remains with the supervisor even if he or she delegates one or more activities related to scheduling and/or assignments.

1. WISHA enforcement and consultation supervisors will work from the same lists in assigning programmed inspections and marketing consultation services (see WRD 2.12).
2. WISHA activities will also be coordinated with Risk Management staff on a regional basis (see WRD 2.12).
3. WISHA enforcement and consultation supervisors are expected to coordinate with other regions when assigning inspections to large statewide employers to avoid unplanned and uncoordinated levels of simultaneous activity.
4. WISHA enforcement supervisors must not assign more than one site of a fixed industry employer operating in their region for a targeted health inspection *and* one site for a targeted safety inspection unless inspection results or other factors clearly document the need for a heightened enforcement presence.

Note: The previous limitation applies only to the extent that the sites involved are engaged in substantially similar activities. It should not be read to restrict a supervisor from assigning inspections of distinct operations simply because they share a single employer. For example, the restriction would apply to two restaurants owned by a single employer. But it would not apply to a bakery or commercial food service owned by the same employer.

B. How should non-targeted work sites of targeted employers be handled?

With the exception of those inspections addressed in #3 below or that are the result of approved local emphasis programs (see WRD 2.30), WISHA compliance supervisors must assign programmed inspections only to targeted worksites of targeted employers (as reflected by highlighting on the SHIMS list).

1. Inspections of other-than-targeted worksites of the same employer must be assigned and reported according to non-programmed inspection guidance found in the WISHA Compliance Manual.
2. When an inspector conducts an assigned, programmed inspection from one of the "target lists," he or she must record the following information on the appropriate IMIS form:

Box #24: "Planned"

Box #25: *Name of target list* (for example, "WASAFETY," or "WAHEALTH")

C. How should "high-hazard" industry inspections be handled?

Inspections within "high-hazard" industries (construction, logging, seasonal agriculture, maritime, and electrical utilities & communications) or involving process safety management, silica or lead in construction, or asbestos projects that have been scheduled and conducted as described in the appropriate directive are to be considered programmed inspections unless the inspection is a fatality/catastrophe investigation or it is conducted in response to a specific complaint or referral.

1. When an inspector conducts a programmed inspection within a "high-hazard" industry *and the employer appears on the appropriate target list*, the appropriate assignment must be made and the inspector must record the information on the IMIS form as in 2.b above.
2. If an inspector conducts an inspection in a "high-hazard" industry *and the employer does not appear on a target list*, a non-targeted work assignment must be made (coded "U" for electrical utilities & communication or "O" for construction, logging, agriculture or maritime). Upon completing the inspection, the inspector must complete the IMIS form as follows:

Box #24: "Planned"

Box #25: "CONSTR," "MD," "AGRI," "EUC," "LOG," or "ASBESTOS"
(depending on the particular high-hazard industry or activity involved)

D. Can programmed inspections be limited in scope?

With the exception of construction inspections conducted as focused inspections and PSM inspections conducted in accordance with WRD 2.62, programmed inspections are expected to be "comprehensive" health or safety inspections of the particular plant or operation.

E. Should the SHIMS lists be used in order?

As a general rule, yes. When using SHIMS lists, WISHA compliance supervisors are expected to work from the top of the list to the bottom (allowing, of course, for minor variations due to such things as geography and the efficient use of inspectors' time – but such geographic considerations do not justify significant delays in inspecting a particular employer on the SHIMS list).

1. For assignments made from one of the SHIMS lists (as opposed to “high hazard” industry inspections or programmed asbestos, lead or silica in construction, or process safety management inspections), WISHA supervisors may choose to assign a lower priority to an employer on the list or exclude an employer from the list and therefore not schedule an inspection only if one of the following criteria is met (supervisors are expected to document any such decision on SHIMS to the extent possible using the available codes):

- a. The establishment has received a comprehensive enforcement or consultation visit within the same discipline (hygiene or safety) within the previous 12 months (in such cases the employer *must* be excluded from the list);

NOTE: The above provision does not preclude follow-up enforcement activity resulting from a previous enforcement visit or from a consultation visit where serious hazards have not been abated as required by the consultant (see WISHA Consultation Manual for further guidance).

- b. The establishment has received a comprehensive enforcement or consultation visit within the same discipline (hygiene or safety) within the previous 13 to 24 months *and* the supervisor's documented assessment (reflected on SHIMS using the available codes) suggests that a lower priority should be assigned or the employer should be excluded. In making this assessment, the supervisor should consider factors such as the following:

- Whether previous inspections or consultations (especially comprehensive visits) have identified serious violations;
- Whether previous visits by the other discipline (safety or hygiene) have identified a pattern of violations;
- Whether there are known to have been changes in ownership or management that might affect the employer's previously demonstrated commitment to workplace safety and health;
- Whether the employer's loss history reflects a positive or negative trend;
- Other factors based on local knowledge that relate to the likelihood of identifying serious safety or health hazards.

- c. Similar establishments owned and operated by the same employer have received comprehensive inspections or consultations within the same discipline (hygiene or safety) during the previous 12 months *and* the supervisor's documented assessment (reflected on SHIMS) suggests that a lower priority should be assigned or the employer should be excluded. In making this assessment, the supervisor should consider factors such as the following:
 - Whether previous inspections or consultations (especially comprehensive visits) at that location have identified serious violations;
 - Whether previous visits by the other discipline (safety or hygiene) at that location have identified a pattern of violations;
 - Whether there are known to have been changes in location management that might affect the employer's previously demonstrated commitment to workplace safety and health;
 - Whether the employer's management approach is highly centralized or decentralized (to determine the applicability of experience from other sites to the site being considered);
 - Other factors based on local knowledge that relate to the likelihood of identifying serious safety or health hazards at the particular location.
 - d. Similar activities by the same employer are the focus of current enforcement or consultation activity in other regions and the supervisor determines that additional enforcement activity would be inappropriate (see III-A.3 above).
2. WISHA compliance supervisors may delay enforcement visits to targeted employers in order to allow WISHA consultation to encourage the employer to take advantage of consultation services (see WRD 2.12).
 3. WISHA compliance inspections must be assigned and conducted without regard to non-WISHA activity by L&I staff (some "non-WISHA" L&I staff may be conducting consultations related to compliance with the ergonomics rule and such visits *are* considered WISHA activity). Employers must not be assigned a lower priority or excluded in relation to mandatory or programmed inspections based on such non-WISHA activity. However, regional management and supervisors may choose to alter the scheduling of visits to avoid obvious conflicts (for example, the arrival of a WISHA inspector during or immediately before or after a Risk Management visit or an industrial insurance audit -- such activity is generally documented on the RMES screen in LINIIS).

Note: This does not eliminate the need for Risk Management coordination with WISHA Consultation, nor does it eliminate the need for Risk Management to participate in discussions about appropriate WISHA consultation and/or enforcement activity in relation to targeted employers. But if an employer takes advantage of Risk Management services without also accepting a WISHA consultation, the employer remains at the same place on the WISHA targeting lists.

4. WISHA compliance supervisors may delay enforcement visits to targeted employers in order to avoid conflict between hygiene and safety inspection activities (although coordinated inspections in such cases are preferred). However, inspections by the other discipline (hygiene or safety) are *not* a basis for assigning a lower priority to or excluding a targeted employers and any delay should be limited to that necessary to avoid unnecessary conflict.
5. Information related to ongoing or current inspection or consultation activity is confidential, and WISHA and non-WISHA L&I staff with access to such information via SHIMS must be made aware of and maintain that confidentiality.

Approved: _____

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For further information about this or other WISHA Regional Directives, you may contact WISHA Policy & Technical Services at P.O. Box 44648, Olympia, WA 98504-4648 -- or by telephone at (360)902-5503. You also may review policy information on the WISHA Website (<http://www.wa.gov/lni/wisha>).